

AGREEMENT PROVIDING FOR
ADVANCED LIFE SUPPORT SERVICES

This Agreement is made and entered into this ____ day of _____, 2003, by and between the **City of Tallahassee**, a Florida municipal corporation, hereinafter referred to as the "City," and **Leon County, Florida**, a political subdivision of the State of Florida, hereinafter referred to as the "County."

WHEREAS, effective January 1, 2004, the County assumes responsibility for the operation of emergency medical services and emergency medical transport services on a county-wide basis throughout Leon County; and,

WHEREAS, the County currently contracts with the City for the provision of certain professional fire protection services and first response Basic Life Support services pursuant to a certain Fire Services Agreement entered into on March 31, 1988, and subsequently amended on March 25, 1992, October 27, 1992, and May 17, 1999 (collectively, the "Fire Services Agreement"); and,

WHEREAS, the Fire Services Agreement provides the opportunity for the County to contract with the City for additional services; and,

WHEREAS, on June 10, 2003, the County adopted Ordinance No. 03-15 creating an Emergency Medical Services MSTU, to provide for the funding of countywide emergency medical services and emergency medical transport services; and,

WHEREAS, on June 25, 2003, the City adopted Ordinance No. 03-0-36AA consenting to the inclusion of all of the incorporated area of the City of Tallahassee in the Leon County Emergency Medical Services MSTU; and,

WHEREAS, the County will provide Medical Direction for First-response Medical Services by the City; and,

FURTHER WHEREAS, the County desires the City to provide, and the City is willing to provide, as set forth in this Agreement, first-response Advanced Life Support services within the Primary Response Areas of certain City-owned fire stations located.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises hereinafter set forth, the parties do hereby agree as follows:

1. Definitions.

"Advanced Life Support" shall mean treatment of life-threatening medical emergencies through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, and cardiac defibrillation by a qualified person, pursuant to rules of the FDH.

"ALS-certified" shall mean certified by the FDH to perform Basic Life Support and Advanced Life Support pursuant to Chapter 401, Florida Statutes.

"Applicable Law" shall mean all federal, state, and local laws, statutes, ordinances, rules, and regulations that are applicable to provision or performance of the specified services.

"Basic Life Support" shall mean treatment of medical emergencies by a qualified person through the use of techniques such as patient assessment, CPR, splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical anti-shock

trousers, administration of a subcutaneous injection using a pre-measured auto-injector of epinephrine to a person suffering an anaphylactic reaction, and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation.

"BLS-certified" shall mean certified by FDH to perform Basic Life Support pursuant to Chapter 401, Florida Statutes.

"EMS MSTU Ordinance" shall mean either Ordinance No. 03-0-36AA adopted by the City on June 25, 2003, or Ordinance No. 03-15 adopted by the County on June 10, 2003.

"EMS Director" shall mean the person designated by the County to manage operation of the EMS Program.

"EMS Program" shall mean the Leon County Emergency Medical Services Program, including emergency medical services and emergency medical transport services operated by Leon County.

"First-response Medical Services" shall mean any emergency medical service which uses advanced life support techniques provided by the City under this Agreement and first-response BLS Services provided by the City under the Fire Services Agreement.

"Medical Director" shall mean the licensed emergency physician designated by the County to serve as the Medical Director with regard to the EMS Program and the provision of First-response Medical Services by the City, all in accordance with Applicable Law.

"FDH" shall mean the Florida Department of Health.

"Medical Protocol" shall mean any diagnosis-specific or problem-oriented written statement of standard procedure, or algorithm, promulgated by the Medical Director as the medically appropriate standard of out-of-hospital care for a given clinical condition.

"Primary Response Area" shall mean the area, as designated by the City, within which vehicles and personnel from a specified fire station shall have primary duties for response to emergency situations which shall be consistent with the existing Primary Response Area for such specified fire station.

2. Term. The Term of this Agreement shall commence on the date on which it has been executed by both parties, and shall end on December 31, 2008, unless earlier terminated pursuant to the terms of this Agreement.

3. Provision of Services.

A. Scope of Services.

(1) In addition to providing Basic Life Support services in accordance with the Fire Services Agreement, the City, commencing on March 1, 2004, shall provide First-response Medical Services, on a 24-hour per day, 7-day per week basis, within the Primary Response Area for each of five (5) City-owned fire stations located within the corporate limits of the City. Those fire stations shall be selected by the City, subject to acceptance by the County, prior to February 1, 2004. Such date for commencement of First Response Medical Services is conditioned upon acceptance by the County of the (5) fire stations designated by the City and the timely payment of the capital and operating start-up costs for initiation of ALS Services as provided in Paragraph 5.A. If such acceptance or payment is not timely made, the date for commencement of First Response Medical Services shall be sixty (60) days after the date on which such payment or acceptance is made.

(2) The City Manager and the County Administrator shall meet annually, prior to July 1, to discuss the possible expansion of services; provided under this Agreement; provided, however, that any agreement regarding such expansion must be set forth in a written amendment to this

Agreement, which amendment shall address any additional amounts to be paid for such expansion of services, the date of commencement of such expanded services (which date shall be no earlier than sixty days following the date such amendment is executed by both parties), and any other issues relevant to such expansion of services.

B. First-response Medical Services under this Agreement shall be provided utilizing City vehicles otherwise assigned to the designated fire stations, and such vehicles shall be equipped, in accordance with Applicable Law, for provision of such services.

C. First-response Medical Services provided by City BLS-certified or ALS-certified employees, whether under this Agreement or the Fire Services Agreement, shall be rendered at the direction of the Medical Director and in accordance with the Medical Protocols.

D. If City BLS-certified or ALS-certified employees arrive at the scene of an incident or medical call prior to the arrival of County EMS personnel, those City employees shall remain in control of the patient until County EMS personnel arrive. Upon the arrival of County EMS personnel and determination that the scene of the incident is safe for entry of such personnel, control of the patient shall shift to the County EMS personnel.

E. The City hereby recognizes and agrees that the Leon County Sheriff's Office shall dispatch all Leon County EMS personnel pursuant to a separate agreement between the County and the Leon County Sheriff's Office.

The County hereby recognizes that City BLS-certified and ALS-certified employees will be dispatched by the City.

F. The City agrees to permit the County to base one of its emergency response vehicles, and associated emergency medical personnel, at each of three (3) City-owned fire stations located in the unincorporated area of the County; provided, however, that any renovations, improvements, or additional equipment or furnishings at such stations, shall only be provided subject to mutual County and City approval and, if approved, completed or provided at the sole expense of the County. Notwithstanding the above, one bedroom will be provided for use by such County personnel at each of those fire stations designated at no additional cost.

G. Medical Director

The County agrees that, throughout the term of this Agreement (including any extensions thereof), it will provide a Medical Director for the EMS Program, and for the provision of First-response Medical Services by the City, who will meet all requirements of, and will perform all duties and obligations required of a medical director under, Applicable Law (including without limitation Chapter 401, Florida Statutes). The County will ensure that at all times the Medical Director is required to supervise and assume direct responsibility for the medical performance of all BLS-certified and ALS-certified City employees to the extent that they are performing First-response Medical Services.

4. Personnel and Training.

A. The personnel providing ALS Services under this Agreement will be employees of the City. The City shall not be required to provide any training in delivery of such ALS Services, or any associated equipment or supplies, to any volunteer firefighters, and volunteer firefighters will not be used, by either party, in providing ALS Services within either the corporate limits of the City or the unincorporated areas of the County.

B. The County shall provide, or shall otherwise pay the cost of, and shall coordinate all training determined by the County to be required by City employees to provide ALS Services under this Agreement; provided, however, that the number of such personnel receiving training shall not exceed thirty-five (35). Such training shall include, continuing education required for licensure or certification, other professional training that may be required by the Medical Director, and other training required in relation to documentation of ALS Services for purposes of subsequent patient billing by the County. All training courses must be offered with no less than thirty (30) days prior notice to the City, and at reasonable times consistent with the work schedules of affected City employees.

5. Payment for Services.

A. No later than February 1, 2004, the County shall pay to the City the sum of \$105,320 as capital and operating start-up costs for initiation of First Response Medical Services. In addition to payment of such start-up costs,

the County shall pay to the City, no later than the 10th day of March, May, and August of 2004, a recurring operating cost payment in the amount of \$115,079.

B. On or before the 10th day of October 2004, and January, April, and July of 2005, the County shall pay to the City a recurring operating cost payment in the amount of \$552,412.

C. On or before the 10th day of October 2005, and January, April, and July of 2006, the County shall pay to the City a recurring operating cost payment in the amount of \$577,656.

D. On or before the 10th day of October 2006, and January, April, and July of 2007, the County shall pay to the City a recurring operating cost payment in the amount of \$604,946.

E. On or before the 10th day of October 2007, and January, April, and July of 2008, the County shall pay to the City a recurring operating cost payment in the amount of \$634,573.

F. On or before the 10th day of October 2008, the County shall pay to the City a recurring operating cost payment in the amount of \$667,941

G. Fire Services Fee Off-set and Rebate.

(a) The City assesses a certain Fire Services Fee to recover the costs of providing fire suppression and certain first response medical services. The parties agree that such fee cannot be used to fund provision of ALS Services; however, ALS-certified City employees whose salaries and benefits are currently paid, in part, with funding derived from such fee will be providing ALS Services.

In order to off-set such funding, the County, in addition to payments described in Paragraph 5.A above, will make the following payments to the City: (i) the amount of \$20,000 to be paid no later than the 10th day of March, May, and August of 2004.

(b) The County and City acknowledge that the payments reflected in Sections 5 (b) through 5 (f) provide funding to support all ALS expenditures being made by the City beginning in October 2005. Corresponding to this payment, an annual rebate will be made to the County by the City. This rebate is being made to properly reflect that the ALS payment from the County to the City is being made utilizing Countywide resources, which primarily benefits the incorporated area of the County. The amount of the rebate will be calculated as a percentage of the taxable value of the unincorporated area divided by the taxable value of the entire County. Taxable value shall mean the final current year gross taxable value as reported by the Property Appraiser on line 2 of the Certification of Final Taxable Value form DR-422 or its successor document. This percentage will be multiplied by the payments reflected in Sections 5 (b) through 5 (f) and equal the rebate due the County from the City. This rebate will be rendered by the City to the County on a quarterly basis, commencing on January 1, 2005

H. In addition to the payments described in Paragraphs 5.A through 5.G above, and upon its prior written approval, the County shall provide to the City all capital and non-capital equipment, all repair services and

replacements for such equipment, and all medical supplies and medications required in providing the ALS Services, as specified by the City, Applicable Law, the Medical Protocols, or otherwise by the Medical Director; provided, however, that such obligation shall not include providing any of the following items: long spine boards, Kendrick Extrication Device, Sager Traction Splint, portable suction device, or Basic Life Support bandaging supplies not being routinely purchased by the City on the date first written above. All equipment, medical supplies, and medications furnished by the County to the City shall be of the same type, brand, and kind as used by the County in relation to its provision of emergency medical services. In the event the County fails to provide such equipment, or related repair or replacement, medical supplies, or medications in a timely manner as reasonably required by the City and agreed to by the County, the City may procure the same and present an invoice therefore to the County. The County shall pay each such invoice within ten (10) days following its receipt from the City.

I. The County agrees not to hire any BLS-certified or ALS-certified persons employed by the City to provide First-response Medical Services. The City agrees not to hire any BLS-certified or ALS-certified persons employed by the County to provide emergency medical services as part of the EMS Program.

I. The City MSTU ordinance shall be revised, or amended to expire no earlier than September 30, 2009. This revision or amendment must

occur prior to any payments being made from the County to the City. Should such revision or amendment not be made by the City, the County shall be under no obligation to make any payments described in this Section, and this Agreement shall automatically terminate.

6. Termination.

A. If either party fails to comply with any of the terms or conditions of this Agreement or defaults in any of its obligations under this Agreement and shall fail, within thirty (30) calendar days after written notice from the other party, to correct such default or noncompliance, the non-defaulting party may, at its option, forthwith terminate this Agreement.

B. Either party may terminate this Agreement effective on September 30 of 2005, 2006, 2007, or 2008 by giving the other party not less than 120 days prior written notice of such termination. In the event of such termination, the parties shall be released of any further obligation to, and shall have no recourse against, one another under this Agreement except for (i) any breach of this Agreement that occurred prior to the effective date of such termination, provided that the non-defaulting party has given written notice thereof to the other party prior to the effective date of such termination, and (ii) the obligations of each party under Paragraph 8.H.

C. Annually the MSTU shall be levied at a rate not less than that which is sufficient to fully fund this Agreement. If such rate is not levied at a rate

which is sufficient to fully fund this Agreement then this Agreement automatically terminates at September 30 of the most current year of which the rate was levied. This rate shall not exceed one-half mills annually.

D. If this Agreement is terminated, the ownership of all equipment, any vehicle, and all medical supplies provided by the County or purchased by the City solely with funding provided by the County under this Agreement shall revert to the County. The City shall convey such property to the County, "AS IS" AND WITHOUT WARRANTY OF ANY KIND and without further liability therefore, no later than thirty (30) days after the effective date of such termination.

E. If the Agreement is terminated for any reason other than a default by the County under this Agreement or termination under Paragraph 3.G, any advance funding provided by the County to the City, which has not been spent prior to the effective date of such termination, shall be refunded to the County within thirty (30) days following the effective date of such termination, subject to set-off by the City for any amounts due and owing the City by the County under this Agreement.

F. The grounds for termination and the remedies set forth in this Paragraph 6 are intended to be cumulative with those set forth in other Paragraphs of this Agreement, as well as those otherwise available to the parties at law or in equity.

7. Dispute Resolution.

A. The parties shall attempt to resolve any disputes that arise under this Agreement in good faith and in accordance with this Paragraph. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Agreement, as an alternative dispute resolution process is hereby set forth in this Paragraph 7. The aggrieved party shall give written notice to the other party, in the manner set forth in Paragraph 8.E, setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".

B. The appropriate City and County department heads shall meet at the earliest opportunity, but in any event within 10 days from the date the Dispute Notice is received, to discuss and resolve the dispute. If the dispute is resolved to the mutual satisfaction of both, the department heads shall report their decision, in writing, to the City Manager and the County Administrator.

C. If the department heads are unable to reconcile the dispute, they shall report their impasse to the City Manager and the County Administrator who shall then convene a meeting at their earliest opportunity, but in any event within 20 days following receipt of the Dispute Notice, to attempt to reconcile the dispute.

D. If a dispute is not resolved by the foregoing steps within thirty (30) days after receipt of the Dispute Notice, unless such time is extended by mutual agreement of the parties, then either party may require the dispute to be submitted to mediation by delivering written notice thereof (the "Mediation

Notice") to the other party. The mediator shall meet the qualifications set forth in Rule 10.010(c), Florida Rules for Mediators, and shall be selected by the parties within 10 days following receipt of the Mediation Notice. If agreement on a mediator cannot be reached in that 10-day period, then either party can request that a mediator be selected by an independent conflict resolution organization, and such selection shall be binding on the parties. The costs of the mediator shall be borne equally by the parties.

E. If an amicable resolution of a dispute has not been reached within 60 calendar days following selection of the mediator, or by such later date as may be mutually agreed upon by the parties, then such dispute may be referred to binding arbitration by either party. Such arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes).

(1) Such arbitration shall be initiated by delivery, from one party (the "Claimant") to the other (the "Respondent"), of a written demand therefor containing a statement of the nature of the dispute and the amount, if any, involved. The Respondent, within ten (10) days following its receipt of such demand, shall deliver an answering statement to the Claimant. After the delivery of such statements, either party may make new or different claims by providing the other with written notice thereof specifying the nature of such claims and the amount, if any, involved.

(2) Within ten (10) days following the delivery of such demand, each party shall select an arbitrator and shall deliver written notice of that selection to the other. If either party fails to select an arbitrator within such time, the other party may make application to the court for such appointment in accordance with the Florida Arbitration Code. Within ten (10) days following delivery of the last of such written notices, the two arbitrators so selected shall confer and shall select a third arbitrator. Each of the arbitrators so appointed shall have experience in local government issues relating to provision of emergency medical services.

(3) The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection of the third arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 – R-48, of the Commercial Arbitration Rules of the American Arbitration Association.

8. General Provisions.

A. Assignment. The City shall not assign any portion of this Agreement without written consent first obtained from the County and any assignment made contrary to the provisions of this paragraph may be deemed a default of the Agreement and, at the option of the County, shall not convey any rights to the assignee.

B. Compliance with Applicable Law. In providing Services and otherwise carrying out its obligations under this Agreement, the City shall comply with Applicable Law. Such compliance shall include obtaining any and all federal, state or local permits or licenses required to perform its obligations under this Agreement.

C. Independent Contractor. Nothing in this Agreement shall be construed to create a relationship of employer and employee or principal and agent, partnership, joint venture, or any other relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the provisions of the Agreement. Nothing in the Agreement shall create any right or remedies in any third party, it being solely for the benefit of the County and the City.

D. Non-waiver. Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice or declare this Agreement terminated shall not constitute a general waiver or relinquishment of the same, or of any other terms, conditions, or acts; but the same shall be and remain at all times in full force and effect.

E. Notice. If written notice to a party is required under this Agreement, such notice shall be given by hand delivery, recognized overnight delivery service, or by first class mail, registered and return receipt requested, to the County as follows:

DRAFT – SUBJECT TO REVISION

and to the City as follows:

City Manager
City Hall
300 S. Adams Street, Box A-21
Tallahassee, Florida 32301

With a copy to –

Fire Chief
327 N. Adams Street
Tallahassee, Florida 32301

F. Force Majeure. A party's timely performance of its obligations under this Agreement, only to the extent it is specifically affected thereby, shall be suspended, without forfeiture of any performance bond or the incurring of any financial liability, when and only for as long as performance of such obligations is prevented by reason of any of the following cases: (i) acts of God, including without limitation severe weather events, (ii) operation of law, and (iii) any other event beyond the reasonable control of the party whose performance is affected, to the extent not caused by such party's willful or negligent acts or omissions, except in those cases where that party could have reasonably foreseen and reasonably avoided the occurrence. The party affected by any such event shall give written notice thereof to the other party as soon as practicable after it becomes aware of such an event and, to the extent practicable, shall specify the anticipated length of the delay. The affected party shall use reasonable efforts to minimize the impact of that delay

on that party's performance. Neither party shall be liable to the other for damages caused by such events. This provision shall not apply to obligations to make payments under Paragraph 5 of this Agreement.

G. Choice of Law, Venue, and Severability. This Agreement shall be construed and interpreted in accordance with Florida Law. Venue for any action brought in relation to this Agreement shall be placed in a court of competent jurisdiction in Leon County, Florida. If any provision of this Agreement is subsequently held invalid, the remaining provisions shall continue in effect.

H. Indemnification. Each party agrees to indemnify, defend and hold harmless the other party, its officials, officers, and employees, from and against all liabilities, damages, costs and expenses, including but not limited to a reasonable attorney's fee, to the extent the same are caused by the negligent or wrongful acts or omissions of the indemnifying party, or its officials, officers, or employees, in the performance of this Agreement. The liability of each party, as set forth in this paragraph, is intended to be consistent with limitations of Florida law, including the state's waiver of sovereign immunity pursuant to Section 768.28, Florida Statutes. No obligation imposed by this paragraph shall be deemed to alter said waiver or to extend the liability of a party beyond such limits, nor shall any such obligation be deemed or construed as a waiver of any defense of sovereign immunity to which the indemnifying party may be entitled.

I. Reporting Requirement and Billing for Services. The City shall not be entitled to bill or otherwise charge, in any manner whatsoever, recipients of the Services provided under this Agreement, such authority hereby being reserved to the County. The City hereby assigns to the County any and all rights to recover the costs, expenses, charges or fees to be imposed upon recipients of such Services provided by the City under this Agreement. The City shall promptly input and provide to the County all recipient patient and billing data received in the course of providing Services under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective the day and year first set forth above.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DRAFT – SUBJECT TO REVISION

CITY OF TALLAHASSEE

Attest:

By: _____
Gary Herndon, City Treasurer-Clerk

By: _____
Anita R. Favors, City Manager

Approved as to form:

City Attorney

LEON COUNTY, FLORIDA

Attest: Robert B. Inzer
Clerk of Circuit Court

By: _____
Deputy Clerk

By: _____
Jane G. Sauls, Chair

Approved as to form:

County Attorney